

DEPARTMENT OF THE ARMY
Wilmington District, Corps of Engineers
Post Office Box 1890
Wilmington, North Carolina 28402-1890

Action ID No. 200110096

October 4, 2001

PUBLIC NOTICE

PCS Phosphate Company, Post Office Box 48, Aurora, North Carolina, 27806 has applied for a Department of the Army permit TO IMPACT 2,394 ACRES OF WETLANDS AND WATERS OF THE UNITED STATES, INCLUDING NAVIGABLE WATERS, TO CONTINUE ITS PHOSPHATE MINING OPERATION ON HICKORY POINT, NEAR NC HIGHWAY 306, ADJACENT TO THE PAMLICO RIVER, SOUTH CREEK AND ITS TRIBUTARIES, NORTH OF AURORA, BEAUFORT COUNTY, NORTH CAROLINA.

On August 27, 1997, PCS Phosphate was issued a Department of the Army (DA) permit to discharge fill material into 1,268 acres of waters and wetlands to continue its mining operation pursuant to Alternative "E", more fully described in the final Environmental Impact Statement for the project dated August 1996.

On November 2, 2000, PCS Phosphate applied for DA authorization to continue its mining advance on the Hickory Point peninsula once reserves are depleted in Alternative "E". On January 9, 2001, a Public Notice describing this proposal was circulated. According to the application, 2,530 acres of wetlands and 49 acres of open waters including navigable waters would be adversely impacted by the mining advance. In response to comments received from the January 9, 2001 Public Notice and from the initial scoping comments received from the general public, State, Federal, and local agencies, PCS Phosphate elected to revise their application to reduce impacts to open waters and navigable waters as shown in the following table:

| | |
|-------------------------------------|-----------------|
| 1. Creeks/Open Water | 4 acres |
| 2. Brackish Marsh Complex | 35 acres |
| 3. Bottomland Hardwood Forest | 120 acres |
| 4. Disturbed-Herbaceous Assemblage | 207 acres |
| 5. Disturbed-Scrub-Shrub Assemblage | 581 acres |
| 6. Pine Plantation | 745 acres |
| 7. Hardwood Forest | 209 acres |
| 8. Mixed Pine-Hardwood Forest | 314 acres |
| 9. Pine Forest | 100 acres |
| 10. Ponds | 19 acres |
| 11. "47% wetland" area | <u>60 acres</u> |
| Total | 2,394 acres |

In addition, 1,028 acres of upland habitat are included in the mine continuation for a total of 4,422 acres of disturbance.

The project will impact 4 acres of open waters, the majority of which are located in Huddles Cut, Tooleys Creek, and the unnamed tributary near the Pamlico Aquaculture Center. In addition, Project Area II (marsh creation area) would be impacted by the proposed mine. Navigable waters of Jacks Creek, Jacobs Creek, and Tooleys Creek would also be impacted by the proposed project. Impacts to submerged aquatic vegetation (SAV) including widgeon grass (Ruppia maritima), Eurasian water-milfoil (Myriophyllum spicatum), horned pondweed (Zannichellia palustris), and hornwort, (Ceratophyllum demersum) are expected in the open waters.

The applicant's stated purpose and need for the proposed work is to continue mining its phosphate reserve in an economically viable fashion. More specifically, this is defined as a long term (approximately 20 year) systematic and cost effective mine advance within the project area for the on-going PCS Phosphate mine operation near Aurora, North Carolina. A map showing the proposed mine advance is included with this public notice.

This application is being considered pursuant to Section 10 of the River and Harbor Act of 1899 (33 U.S.C. 403) and Section 404 of the Clean Water Act (33 U.S.C. 1344). The Corps of Engineers has received scoping comments in response to the January 9, 2001 Public Notice. However, pursuant to the Council on Environmental Quality regulations for implementing the National Environmental Policy Act, any comments received after the Notice of Intent to prepare an Environmental Impact Statement has been published in the Federal Register will still be fully considered in the analysis of alternatives and impacts associated with the proposed action. This Public Notice will serve as the Corps of Engineers' formal request for scoping comments relative to the proposed work. The Corps of Engineers is planning to prepare an Environmental Impact Statement (EIS) in accordance with the Council on Environmental Quality regulations (40 CFR 1500-1508), the U.S. Army Corps of Engineers' regulations for implementing the National Environmental Policy Act of 1969, (33 CFR Part 230), as amended, and the U.S. Army Corps of Engineers' Regulatory Program regulations (33 CFR Part 325, Appendix B). Any person may request, in writing within the comment period specified in this notice, that a public hearing be held to consider this application. Requests for public hearing shall state, with particularity, the reasons for holding a public hearing.

As referenced above, this public notice will initiate our formal review of the proposed mine continuation and request for scoping comments on the proposal. In addition, pursuant to the 404 (q) Memorandums of Agreement, this public notice also serves as our notice to the U.S. Environmental Protection Agency, the U.S. Department of the Interior, and the U.S. Department of Commerce that the requirements outlined in the applicable memorandum will commence with the issuance of this public notice.

Additional public notices will be issued in the future soliciting comments on the permit application and the EIS as significant issues relative to the proposal are identified and considered as the EIS is developed.

This proposal shall be reviewed for the applicability of other actions by North Carolina agencies such as:

a. The issuance of a Water Quality Certification under Section 401 of the Clean Water Act by the North Carolina Division of Water Quality (NCDWQ).

b. The issuance of a permit to dredge and/or fill under North Carolina General Statute 113-229 by the North Carolina Division of Coastal Management (NCDCM).

c. The issuance of a permit under the North Carolina Coastal Area Management Act (CAMA) by the North Carolina Division of Coastal Management (NCDCM) or their delegates.

d. The issuance of an easement to fill or otherwise occupy State-owned submerged land under North Carolina General Statute 143-341(4), 146-6, 146-11, and 146-12 by the North Carolina Department of Administration (NCDA) and the North Carolina Council of State.

e. The approval of an Erosion and Sedimentation Control Plan by the Land Quality Section, North Carolina Division of Land Resources (NCDLR), pursuant to the State Sedimentation Pollution Control Act of 1973 (NC G.S. 113 A-50-66).

The requested Department of the Army (DA) permit will be denied if any required State or local authorization and/or certification is denied. No DA permit will be issued until a State coordinated viewpoint is received and reviewed by this agency. Recipients of this notice are encouraged to furnish comments on factors of concern represented by the above agencies directly to the respective agency, with a copy furnished to the Corps of Engineers.

This notice initiates the Essential Fish Habitat (EFH) consultation requirements of the Magnuson-Stevens Fishery Conservation and Management Act. It is the District Engineer's initial determination that the project may adversely affect EFH or associated fisheries managed by the South Atlantic or Mid Atlantic Fishery Management Councils and the National Marine Fisheries Service. The required EFH assessment will be incorporated into the EIS prepared for this project.

An archeological survey was conducted within the proposed mining area by Dr. David S. Phelps for the Environmental Impact Statement prepared for the previous permit number 199800449. The work within the proposed project area is not expected to cause any impacts to significant archeological or historic resources. By letter dated March 9, 1993, the North Carolina State Historic Preservation Officer reviewed Dr. Phelps findings and proposals and concurred with his recommendations. Depending on the location of alternatives that will be assessed in the EIS, additional surveys may be necessary.

Based on available information, the District Engineer is not aware that the proposed activity will affect species, or their critical habitat, designated as endangered or threatened pursuant to the Endangered Species Act of 1973. Depending on the location of alternatives that will be assessed in the EIS, additional surveys may be necessary.

The decision whether to issue a permit will be based on an evaluation of the probable impacts, including cumulative impacts, of the proposed activity and its intended use on the public interest. Evaluation of the probable impacts that the proposed activity may have on the public interest requires a careful weighing of all those factors that become relevant in each particular case. The benefits that may be expected to accrue from the proposal must be balanced against its foreseeable detriments. The decision whether to authorize a proposal, and if so the conditions under which it will be allowed to occur, are therefore decided by the outcome of the general balancing process. That decision should reflect the national concern for both protection and use of important resources. All factors that may be relevant to the proposal must be considered including the cumulative effects of it. Among those are conservation, economics, aesthetics, general environmental concerns, wetlands, cultural values, fish and wildlife values, flood hazards and flood plain values (according to Executive Order 11988), land use, navigation, shore erosion and accretion, recreation, water supply and conservation, water quality, energy needs, safety, food and fiber production, mineral needs, considerations of property ownership, and, in general, the needs and welfare of the people. For activities involving the placement of dredged or fill materials in waters of the United States, a permit will be denied if the discharge that would be authorized would not comply with the Environmental Protection Agency's 404(b)(1) guidelines. Subject to the preceding sentence and any other applicable guidelines or criteria, a permit will be granted unless the District Engineer decides that it would be contrary to the public interest.

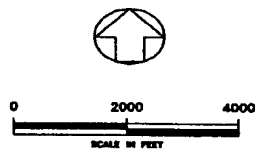
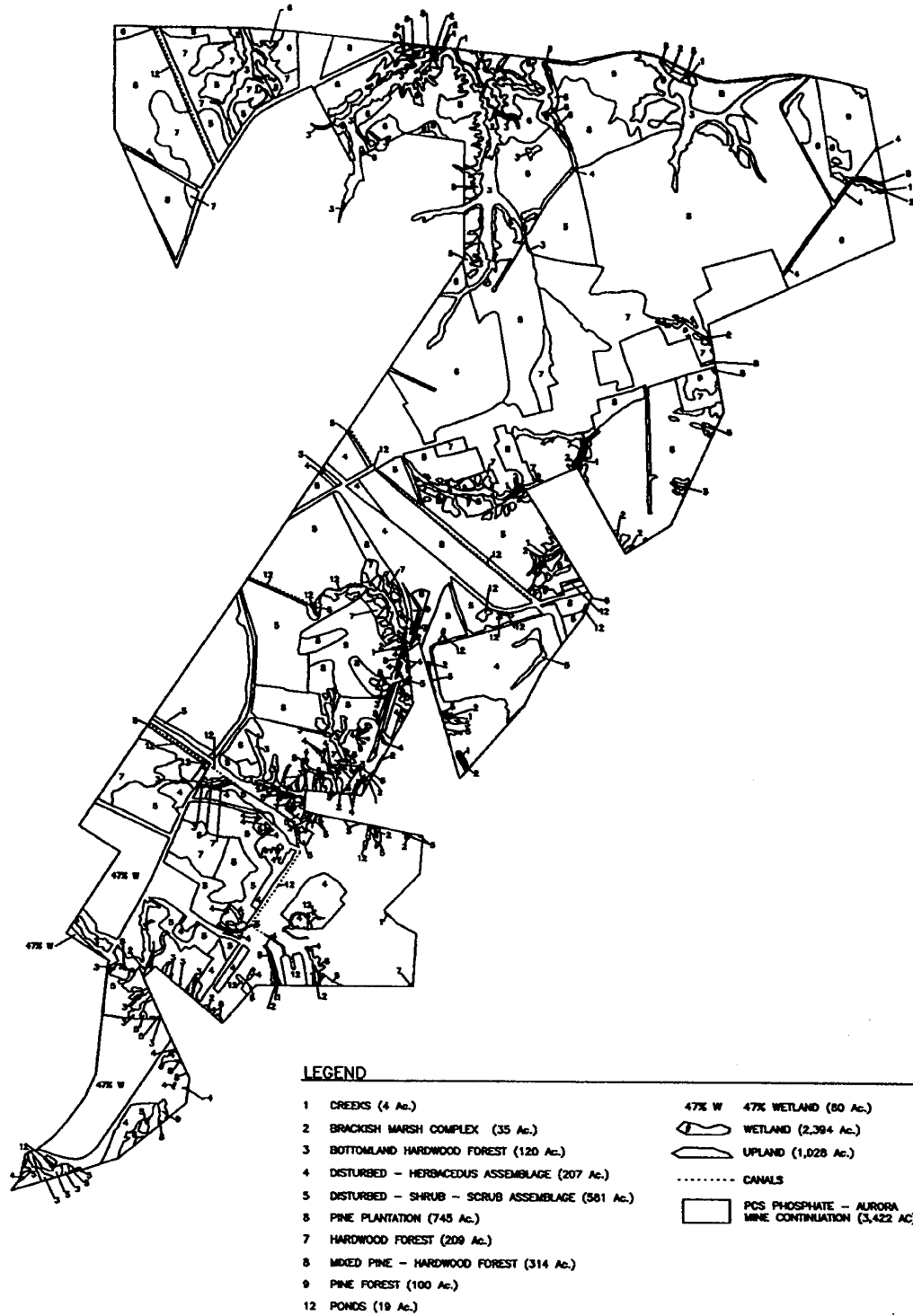
The Corps of Engineers is soliciting comments from the public; Federal, State and local agencies and officials; Indian Tribes and other interested parties to consider and evaluate the impacts of this proposed activity. Any comments received will be considered by the Corps of Engineers to decide whether to issue, modify, condition or deny a permit for this proposal. To make this decision, comments are used to assess impacts on endangered species, historic properties, water quality, general environmental effects and the other public interest factors listed above. Comments are used in the preparation of an Environmental Assessment (EA) and/or an Environmental Impact Statement (EIS) pursuant to the National Environmental Policy Act (NEPA). Comments are also used to decide the need for a public hearing and to decide the public interest of the proposed activity.


Generally, the decision whether to issue this Department of the Army (DA) permit will not be made until the North Carolina Division of Water Quality (NCDWQ) issues, denies, or waives State certification required by Section 401 of the Clean Water Act. The NCDWQ considers whether the proposed activity will comply with Sections 301, 302, 306, and 307 of the Clean Water Act. The application and this public notice for the Department of the Army (DA) permit serves as application to the NCDWQ for certification.

All persons wanting to make comments regarding the application for Clean Water Act certification should do so in writing delivered to the North Carolina Division of Water Quality (NCDWQ), 1650 Mail Service Center, Raleigh, North Carolina 27699-1650, on or before Monday, October 22, 2001, Attention: Mr. John Dorney.

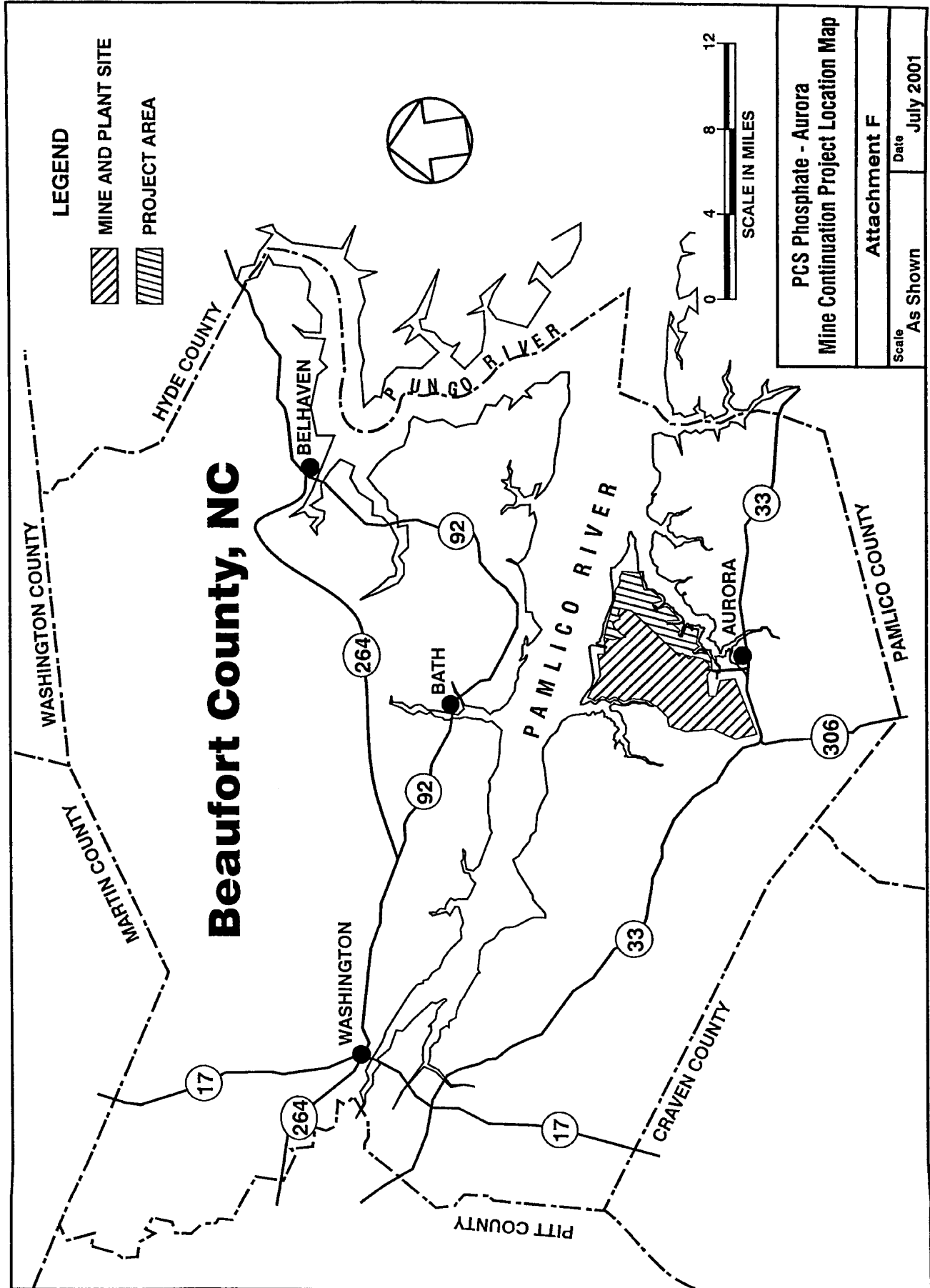
Written comments pertinent to the proposed work, as outlined above, will be received in this office, Attention: Mr. Scott McLendon until 4:15 p.m. Friday November 2, 2001. As referenced above, additional public notices will be issued in the future soliciting comments on the permit application and the EIS as additional information relative to the proposal becomes available.

Attachment G

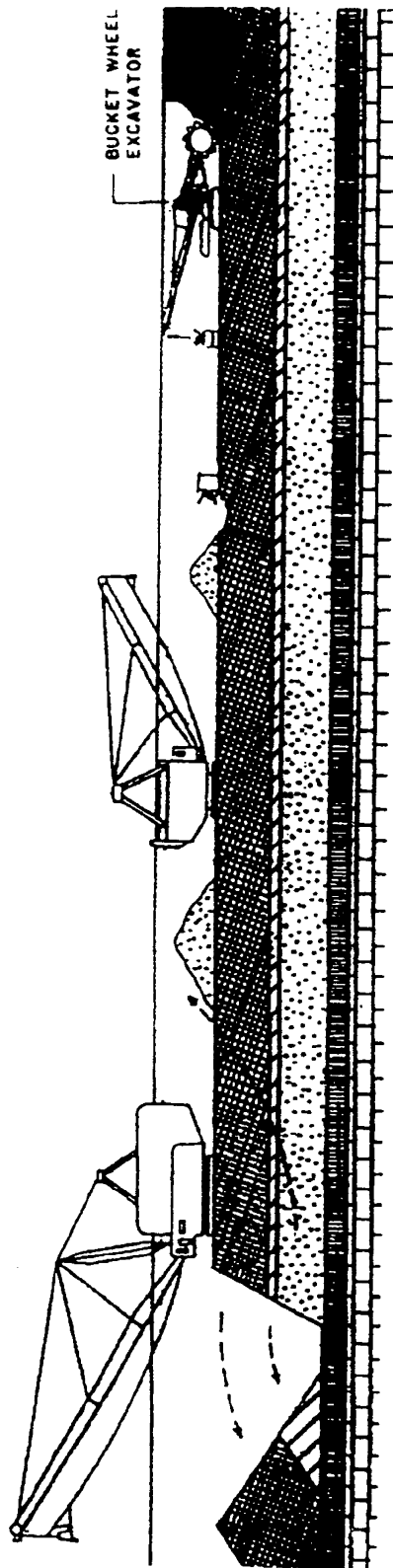


| ATTACHMENT G PCS PHOSPHATE - AURORA MINE CONTINUATION WETLAND DELINEATION | | |
|--|--------------|----------------|
| PCS PHOSPHATE COMPANY, INC. | | |
| SCALE: AS SHOWN | APPROVED BY: | DRAWN BY: SLO |
| DATE: 8/6/01 | KSK | FILE: WET-TRIM |
|  | | CP#1745.57 |
| <small>47th WETLAND ADJACENT TO WETLANDS, NORTH CAROLINA 15-16 P.O. BOX 1111</small> | | |







Attachment F



MINING ADVANCE

LEGEND

-  OVERBURDEN REMOVAL - 1st STAGE
-  OVERBURDEN REMOVAL - 2nd STAGE
-  COCCLINA BED - Also 2nd STAGE
-  ORE
-  LEAN ORE (UNMINED)
-  CASTLE HAYNE UNIT

Note: Bucket Wheel Excavator may be substituted with Dredge.

BUCKET WHEEL EXCAVATOR DRAGLINE MINING METHOD

PCS PHOSPHATE COMPANY, INC.

SCALE: N.T.S.
DATE: 5/26/2000

APPROVED BY:

DRAWN BY: KPC

FILE: BWE-DRAQ.



4709 COLLEGE ACHES DRIVE
WILMINGTON, NORTH CAROLINA 28403
TEL 919/311-4111
FAX 919/311-4111

CP#174557

Attachment B